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FM AMEMBASSY KINGSTON
TO RUEHC/SECSTATE WASHDC PRIORITY 7344
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
INFO RUCNCOM/EC CARICOM COLLECTIVE

UNCLAS SECTION 01 OF 02 KINGSTON 000157

SENSITIVE
SIPDIS

STATE FOR WHA/CAR - BPREMONT/ACADIEUX, VDePIRRO, WSMITH
WHA/EPSC - MROONEY, FCORNEILLE
EEB/IPE - TMcGOWAN
EEB/ESC/IFD/EPC - MMcMANUS

PASS TO USTR - JGROVES

SANTO DOMINGO FOR FCS AND FAS
TREASURY FOR ERIN NEPHEW

E.O. 12958: N/A
TAGS: [ECON](#) [ETRD](#) [KCOR](#) [KIPR](#) [TRYs](#) [IADB](#) [IBRD](#) [IMF](#) [XL](#) [JM](#)
SUBJECT: JAMAICA: 2009 SPECIAL 301 REVIEW REPORT

REF: STATE 8410 (301008Z JAN 09)

SUMMARY AND RECOMMENDATION

¶1. (SBU) Embassy Kingston recommends that Jamaica remain on the Special 301 Watch list until it passes a World Trade Organization (WTO) TRIPS-compliant patent law. The country's trademark and copyright regime meet international standards, and enforcement efforts remain commendable. Significant progress also has been made in training officials involved in the protection of intellectual property rights (IPR). Ministry officials and the Executive Director of the Jamaica Intellectual Property Office (JIPO) remain committed to the passage of the Patents and Designs Act, but the process has been slow. Once the legislation is passed, Post would recommend removing Jamaica from the Special 301 Watch List. End Summary and Recommendation.

LEGISLATION

¶2. (SBU) Jamaica is on the Watch List primarily because its patent and industrial designs regime does not meet WTO TRIPS standards. Jamaica has had TRIPS-compliant trademark and copyright acts in place since 1999. The Jamaican Parliament also approved a bill to protect Geographical Indications, but has yet to pass implementing regulations. The patent, plant variety, and industrial design laws are progressing, but JIPO has missed its 2008 deadline to pass the new law. However, the organization remains hopeful that the legislation will be effected before the next Special 301 Report falls due. Deputy Executive director of JIPO, Lilyclaire Bellamy told emboff that she has received a draft of the new legislation from the Chief Parliamentary Counsel (CPC) for final verification. Bellamy said she is about to send the draft back to the CPC for it to be laid on the table of Parliament for discussion and passage into law.

ADVOCACY AND TRAINING

¶3. (SBU) Embassy Kingston has continued its advocacy efforts over the past year, and in particular has continued to engage Government of Jamaica (GOJ) officials concerning the importance of bringing the country's IPR regime into full conformity with international standards. In November, 2008, in conjunction with the United States Department of Justice, the Embassy presented a workshop for Jamaican experts to share best practices in combating piracy of intellectual property. The workshop included experts from the judiciary, the Office of the Director of Public Prosecutions, JIPO, the Jamaica

Constabulary Force, Jamaica Customs, and the private sector. The experts participated in drafting a handbook to combat intellectual property crimes, which is expected to enhance the country's capacity to investigate and prosecute piracy.

14. (SBU) The GOJ has been very keen to take advantage of training courses offered by the USG, in particular the enforcement academies offered by the United States Patent and Trademark Office (USPTO). In 2008, a number of Jamaicans attended training in Alexandria, Virginia, and Post continues to seek nominations of qualified individuals for such courses. As always, a lack of resources means that the GOJ is unable to send personnel for training at its own expense.

ENFORCEMENT

15. (SBU) Jamaica increased its enforcement successes in 2008, with the police seizing illegal goods from a number of store owners, street vendors, and distributors. There are over 60 piracy cases now before the courts across the island; some cases include larger retail shops. Eighty percent of the IPR cases involve counterfeit CD music; only a few cases involve counterfeit DVDs. The various bureaucracies within the GOJ have internal procedures to prevent the misuse of software licenses or the use of counterfeit software. JIPO is working with the courts to soon list these cases on their website for increasing public awareness. Jamaica has tried to be aggressive in its enforcement efforts; JIPO believes this has acted as a deterrent, and those who once dealt in counterfeits are increasingly switching to genuine products. JIPO lawyers attend court proceedings to provide legal support and have produced a CD-ROM on all IP laws as a resource for judges and their clerks.

KINGSTON 00000157 002 OF 002

COMMENT

16. (SBU) Post believes that Jamaica's continued inclusion on the Special 301 Watch List will encourage the country to pass the Patents and Design Act. Post believes that the GOJ in general, and the JIPO in particular, make a sincere effort to comply with IPR obligations in other areas. Post also believes that there is no real structural impediment to the passage of the law; the delay in enacting the requisite legislation has been caused by the government having to focus on more pressing issues like rampant violent crime, the declining economy, and pressure on the currency. End Comment.

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